



23 Marcus Clarke Street
Canberra ACT 2601
GPO Box 3131
Canberra ACT 2601
tel: (02) 6243 1111
www.accc.gov.au

Our ref: 64737
Your ref: RRC0028
Contact officer: Lyn Camilleri
Contact phone: 03 9290 1973

20 September 2019

Mr John Pierce
Chair
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Dear Mr Pierce *John*

Regulating conditional discounting consultation paper

Thank you for the opportunity to make a submission to the Australian Energy Market Commission's (AEMC) consultation on the regulating conditional discounting rule change request.

A key concern that the ACCC expressed in our Retail Electricity Pricing Inquiry (REPI) in relation to conditional discounting is that conditional discounts are often not fair to those facing payment difficulties, leading to equity issues because those who cannot afford to pay are likely to end up with higher overall bills.¹ For consumers on a market offer with a pay on time discount, the impact of paying a bill after the due date is similar to being charged a penalty for paying late, but high pay on time discounts result in very significant penalties compared with a \$10 or \$15 late payment fee.

We found in REPI that 27 per cent of residential customers and 59 per cent of hardship customers were unable to meet discount conditions. Customers who missed conditional discounts ended up paying some of the highest prices in the market. This disproportionately affects those less able to pay. While we accept that retailers should be able to offer incentives to their customers to reduce retail costs, we remain of the view that these discounts should not be excessive or punitive.

In REPI we recommended (recommendation 33) that conditional discounts should be no higher than the reasonable savings that a retailer expects that it will make if a consumer satisfied the conditions attached to the discount. We remain of this view. Retailers should bear the onus of substantiating that the conditional discount is reasonable.

As the AEMC points out in its consultation paper, the impact of recent reforms to retail markets that commenced on 1 July 2019 are still being observed. The Retail Electricity Code (Code) requires retailers in New South Wales, South Australia and south-east Queensland to now compare their unconditional offers to the reference price, which acts as a consistent

¹ ACCC, *Retail Electricity Pricing Inquiry – Final Report*, p. 264.

benchmark, and any extra conditional discounts must be shown separately as a percentage of the reference price. All conditions must also be displayed. In Victoria, retailers are required to state how their discounted market offers compare to the estimated annual cost of the Victorian Default Offer. These reforms are aimed at improving the comparability and transparency of offers.

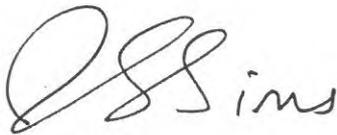
While it is too early to draw conclusions about the impact of these reforms on retail market prices and structure, including the use of conditional discounts, we observed in our recent August report that the number of market offers with conditional discounts has decreased significantly, from around 60 per cent in June 2018 to around 20 per cent in July 2019 in the Code jurisdictions and from around 80 per cent to 35 per cent respectively in Victoria.² Among market offers that still advertise conditional discounts, the level of the percentage discount has also decreased. This reduces customers' exposure to very high prices should they fail to satisfy the conditions. The ACCC is still analysing the impacts of these changes on consumer prices.

The ACCC notes that the reforms do not cover gas offers nor all National Electricity Market jurisdictions and do not apply across all tariff types and therefore a broader rule change is likely to still be of value in addressing the concerns outlined above in relation to conditional discounting.

The ACCC will continue to monitor the effect of the reforms and the impacts on conditional discounting practices as part of its inquiry and will continue to engage with the AEMC on this process.

If you have any questions in relation to this submission, please contact Lyn Camilleri, General Manager, Electricity Markets Branch, on (03) 9290 1973.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rod Sims', written in a cursive style.

Rod Sims

Chair

² ACCC, *Inquiry into the National Electricity Market – August 2019 Report*, pp. 62-3.